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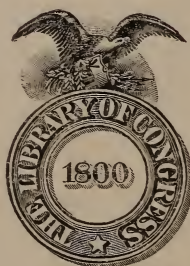
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ADULTED CONSTITUTION
OF
MASS.

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THE
ADJUSTED CONSTITUTION
OF
MASSACHUSETTS

ANNULLED AND FULFILLED PARTS
DROPPED
AMENDMENTS EMBODIED WITH THE
ORIGINAL ARTICLES

EDITED BY
J. NELSON TRASK

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BOSTON
THE EDITOR
1884
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FORETALK.

AIM.

THIS book undertakes to make plain what the live, working parts of the constitution of Massachusetts are. It aims to be useful to seekers of simplicity, brevity, clearness: to movers of just and needful statutes: to lovers of clean politics and good citizenship in this commonwealth. It would gladly be a convenience to professional men, to teachers and youths; but would especially be a help to the earnest citizen, old or young, whose foster mother has been the public school, and whose diploma is his good behavior. It is not a bonanza; does not expect to sail in financial fair weather. It does indeed bear riches: the riches of the greatest laws made by the state; but the state's boundaries enclose the people who will read the book.

NEED.

Let anybody not familiar with the constitution try to find quickly all the laws touching voters, all affecting representatives or senators, the management of elections, the filling of executive and council vacancies; and he will not, with great emphasis, bless the tangle in which the state's text benets him, with its original articles and amendments crossing, intertwisting, doubling back upon each other, while one annuls another and some become obsolete by their whole fulfilment. The common text is the despair of a busy man. The index helps; but who knows that the index is exhaustive? By the twentieth amendment, however, "No

person," with a few exceptions, "shall have the right to vote, nor be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language." This book, then, is meant to forward good citizenship by giving connectedly the great laws which can be made by the citizens only, which stand on their authority, are made for them, and which they are expected by their own law to know how to read. Again, in the code book of Massachusetts, 1882, the constitution of the United States takes up but ten pages: in the same type the constitution of the state occupies nearly thrice as many, twenty-eight. The national constitution, if it does not deal with fewer topics, touches them with a readier, terser hand; but, being eight years younger in adoption, it had the Massachusetts form to improve upon. The Massachusetts constitution goes more into details. Its worst fault is complexity; but the annulled and useless matter is considerable, nearly fifteen pages of the blue book, wherein the dead parts of the twelfth and thirteenth amendments cover almost three pages; and the printing of such matter from year to year wastes the state's money, wastes the reader's time and patience, hinders men's knowing readily the constitution of their state. The convention of 1779, in its address to the people, March 2, 1780, said well, "To balance the powers of government accurately requires the highest skill in political architecture"; but the building should not be made to carry always the stagings of the first builders with the chips of those who have stopped leaks and put on additions. The revisers in 1853 saw this fact, although the constitution then had but thirteen of its twentyeight amendments; and they said, "It is only by careful and critical analysis and comparison that the existing provisions can be determined. This ought not to be."

OBEY OR SUFFER.

The good citizen means to behave himself in society and in the state. Laws are mostly to restrain and punish bad citizens and social parasities; but the good citizen is human: he makes mistakes. He is therefore answerable to the com-

mon or unwritten laws of his country, to the statutes of the state and of the nation, to the constitution of the state, and of the United States. He may hold that his Bible is the highest of all laws written and unwritten: that constitutions and codes are children, and children only, of the Bible. He may hold to the notion of the higher law, that his conscience is, for himself, the highest law. True and strong men have held both of these beliefs. Conscience, however, is not infallible: it may be ill informed, or may be far lower in one place or person than in another; and the best followers of conscience, like other men, have only this choice at last, to obey the laws of the land or to suffer for breaking them. The good citizen will, in a strait, suffer anything for conscience; but the good citizen will not make an emergency nor put himself into a strait merely for an occasion to suffer. Let especially the great and general laws be plain to all persons for knowledge and guidance and safety.

PLAN.

The adjusted text, on the left or even pages, brings the side words and citations regularly upon the left border. It is paragraphed throughout. Each paragraph shows within curves the year in which its substance became law; and the number 1780 marks the parts of the body of the constitution. When an amendment is embodied with these parts, its number in the order of adoption stands before its year number. At the head of each page is an inruled line of Roman numbers, which refer to the articles, amendments, sections and chapters of the original constitution as the state prints it; and mostly in the strict order of the paragraphs. Often the original article is opposite a given paragraph, or within a few pages of it.

The original constitution, with all its amendments, takes up the odd pages. The first ample heading is dropped to bring the preamble upon one page. After the preamble, the full headings are displayed; and, though on smaller pages, the state's form is meant to be exactly reproduced throughout, in words, capitals, punctuation. It passes the end of the other text, and then takes up every page. The brackets, as

in the blue book, show what parts have been annulled by amendments. Thorough oppositeness, however desirable, was not practicable; because, in the other text, the amendments were not kept separate.

After the original text, is a close statement of the parts dropped from it in shaping the adjustment. Reference numbers show where each part is found. The editor will be glad to receive a clear statement, plainly written, of any error or omission in any part of the book.

AUTHORITY.

The legislature may at its next session alter or repeal statutes made at the last session: may, as it did Nov. 19, 1881, codify the statutes when they become too numerous, mixed or unwieldy; but can not codify nor alter the constitution: only the voters of the state, at the polls, where they make the legislature itself, can give binding authority to a change in the constitution. This adjustment, therefore, however convenient and helpful, claims no authority but its truthfulness in giving the operative parts of the constitution. So far as it is correct and trustworthy, it has been ratified in substance; but not in form.

CHANGES.

A constitution naturally has a law flavor; but should no more be darkened with technical bar terms than with those of the hospital or of the divinity school. The folk's law should be in the folk's English. Not much of orotund magniloquence got into it; but some articles are wordy with the mixing of kindred terms (as in Rights, article xxiii; constitution, ch. ii, sec. i, art. vii). The temptation to make changes was always nigh: often amounted to a provocation; and some changes were needful, especially in arranging the incompatible offices together. Joining distant parts of a subject sometimes occasioned clipping or linking: clumsy sentences and obsolete or superfluous words have often been altered; but always with the intent to save the meaning of the law. "Unalienable" turns to inalienable: "such," "said," "aforesaid" to words in common use: "holden"

becomes held: "parties," persons: "right of enjoying and defending," rights of enjoying and defending. (See Rights, par. 1 and 16.) "In congress assembled" (Rights, art. iv), like the second half of the enacting style which is authoritative (par. 144), was a wordy fashion of speech when the idea was young: "judicatories" are courts of justice (par. 38). When a law is cancelled, and the only use of the amendment is to abolish the law (as chap. vi, art. ii, officers of Harvard College; and amendment xxvii), both are dropped. Bracketed parts are all dropped, sometimes replaced (as in Rights, ar. iii; am. xi, and par. 3). Some things not immediately forceful remain, from their brevity, and possible uses, as on naval officers (par. 94); though the state is protected by the United States navy: solicitor general (par. 85); though the attorney general is the state's chief law officer. Many clauses and paragraphs need thorough reconstructing, but mostly they are familiar to lawyers, and intelligible to careful readers. Still a small glossary would be an advantage for paragraphs like 38. Latin words have been under ban: none allowed to remain. *Ex post facto* is a prepositional fog bank: *habeas corpus* is a clipped phrase even in the Latin; and both, while familiar to lawyers as the chairs within the bar, are to probably nine tenths of the people of any state quite as unmeaning as *hocus pocus* and *abracadabra*. Hundreds of voters have studied only at the fireside: thousands have graduated only at the grammar school; but many of these are select men, clerks, wardens of elections. To many the old spelling book has been almost the only glossary. As children they knew nothing of the court room: the grave yard was not thought of. How did the work go? *Hic jacet*, here 'e lies; whether he fibs or lays himself down: the teacher often knew as little as the reciter; and both forgot immortality. *E pluribus unum*, one of many: one man, as likely as one nation; and one among many, as likely as one made up of many. *Ex post facto*, after the fact: perhaps a chase after it. Put it literally, out of after the deed; where still is the inexpert reader? *Habeas corpus*, you may have the body. For what? Perhaps to bury it: nobody in the school room

knew. The constitution might as well, and as fairly to most people, carry instead paracentesis or theotokos. The jury system, so much berated in new states and territories, is largely lame from the law Latin, and the needless technical words in which the jurors are addressed.

The governor's required estate is of a thousand pounds. The money of the state in 1780 was reckoned in pounds: the dollar unit was established by congress in 1786. In translation, the sum naturally runs out into cents. An ounce of silver was constitutionally valued at six shillings and eight pence (ch. vi, art. iii). A dollar is worth $68\frac{2}{3}$ pence; and $240,000 \text{ pence} \div 68\frac{2}{3} \text{ pence} = 3495.14$, the number of dollars equivalent, in coined silver, with ten per cent. of alloy. If coin of the old English fineness, with six per cent. of alloy, be substituted, the sum will rise to $\frac{34}{8}$ of \$3495.14; \$3650.48. When revision comes, it will abolish the property requirement in all officers. A man who has friends enough to make him governor will have enough to endow him with \$3500, if he have not a foot of land nor a horse to ride.

Side words and citations, as the work of no one person, have been freely used: the citations all reprinted, which belonged to the parts paragraphed; but side words and index sentences have been shortened, lengthened, changed, according to the needs of the adjustment.

HISTORY.

The constitution has now, Dec. 25, 1883, been in full force for a hundred and three years and two months, since Oct. 25, 1780. The truculence of kings and ministries, the untrustworthiness of kings' charters, the stir of western Europe and eastern America, made the last quarters of the last century fruitful in constitutions. Men's thoughts, like their hands, were busy. The Anglo Saxons were foremost; but the French, with the American ferment in their returned soldiers, and the American examples before them, made four constitutions during the nineties of that period. In 1791 their constituent assembly, named from its work, limited the monarchy, and made all ranks of people equal, with a constitution: in '93 the national convention planted the new

republic on a constitution: in '95 it made a new one for the five directors: in '99 a fourth constitution made places for three consuls, of whom Napoleon Bonaparte was the large majority.

In America were thirteen of England's colonies breaking regretfully but determinedly away from their oppressive mother. How much of each old form of government should be held? how much replaced by laws grown on free, new ground? The governing of Massachusetts by Andros under James the second, 1686, '7, '8; the writs of assistance, 1761; the stamp act, 1765; the tea act, 1767; the quartering of troops in Boston, 1768; the rebel act against Massachusetts, 1769; the Boston massacre, 1770; the forcing of salaries for the king's governor and judges out of the colonial revenues, 1772; the attempt to enforce the tea tax, 1773; the Boston port bill, the annulling of the Massachusetts charter, the renewed declaration of parliament that the people were rebels and should be tried in England for resistance to British officers, 1774; the attempt of troops to destroy military stores at Danvers, 1775; all these doings provoked and forced the people to assert their constitutional rights against the governor, and to repel his soldiers with soldierly bravery. War soon began at Lexington and Concord. Settling a forest country, exploring and surveying, fighting Indians, warring for England against the French, governing themselves in town affairs, had made the colonists wise and self-trustful as well as hardy. They held congresses for general acquaintance and concerted action: the first, proposed by Massachusetts, at New York, Oct. 7, 1765: the second, arising from a Massachusetts resolution, met at Philadelphia, Sept. 4, 1774, and was the first to be named the continental congress. Constitution making began long before the first congress met. In their matured forms, American constitutions are descendents of the British constitution, especially as it was improved after the crowning of William, prince of Orange; but the pilgrim forefathers in the Mayflower, off Cape Cod, in that little covenant of Nov. 3, O. S., 1620, made the first constitution for Massachusetts; and that was an English constitution, to govern Englishmen in the wilderness. *11,*

A larger effort was that of Franklin, a son of the Massachusetts colony, which was adopted by the colonial convention at Albany, July 10, 1754. It never became law; but its substance was offered to the congress of 1775; and entered largely into the articles of confederation which, in congress at Philadelphia, became not very binding laws for the states, July 9, 1778; and Franklin was justified. From a desire of Washington, at Mount Vernon, spoken to patriotic friends in 1785, and after almost ten years of unsatisfactory use of the confederation laws, the constitution of the United States became law on the twentyfirst of June, 1788.

In Massachusetts, the general court, council and house, the next winter after the declaration of independence, recommended the people to choose for their next house, representatives to draw up a constitution. In June, 1777, a committee of twelve was chosen, which, at the next session, in January, 1778, brought in a constitution for the state of Massachusetts Bay. Many towns, however, had wanted the work done by a convention of special delegates: the governor was not given all the executive power: the draught had been somewhat hurriedly made: it lacked a bill of rights; and was heavily defeated at the polls. On the twentieth of February, 1779, the legislature resolved to ask the people if they would have a new constitution, and would have their representatives call a state convention to make it. In June the voters by a large majority said yes to both questions; although many towns made no answer. June 17, the legislature resolved that the people choose delegates; and the delegates met in Cambridge on the first of September, 1779. They chose a committee to shape a constitution. Nov. 11, they adjourned to meet at the hall of representatives, Boston, on the fifth of January, 1780. By the second of March the constitution was done. It was by resolve given to the people for their votes; and the pamphlet which contains it with the convention's address to the people, bears the authority of James Bowdoin, president, and of Samuel Barrett, secretary. British and tory meddling, many feared, would defeat this lively hope of the patriots. They were only two years from the rejection of

the constitution of 1778; but the people were ready for this one. More than the required two thirds of their votes were for the constitution. On the seventh of June, the convention, according to adjournment, met in the Brattle street church, Boston, and put the returns into the hands of a committee, which reported June 14. On the fifteenth, the convention resolved "That the people of the state of Massachusetts Bay have accepted the constitution as it stands, in the printed form submitted for their revision"; and "That the said constitution or frame of government shall take place on the last Wednesday of October next; and not before, for any purpose, save only for that of making elections": then, June 16, the convention ceased to be; and on Wednesday, Oct. 25, 1780, the first legislature elected on the plan of the new constitution met in the state house at Boston. John Hancock was the governor, James Bowdoin the lieutenant governor. The old law gave place to the new. Cover the amendments, and that law appears by itself, which, without alteration, served the state for almost forty years and a half. Its adoption shows the hope and spirit of the men of Massachusetts in the later darkness of the revolution. Moreover, that first legislature's meeting was but thirtythree days after Arnold's bargain to give up West Point. Six days, however, before the next twentyfifth of October, the sky was bright again: Cornwallis surrendered at Yorktown. In 1795, the people fulfilled the only article which, in the constitution, authorized amendments, by declining to make any. In 1820, June 16, an act of the legislature asked the people's will on revising or altering the constitution. Maine had just become a state: the people of Massachusetts were 523 000 instead of 821 000: they governed 7800 square miles instead of 42,800: they could revise more satisfactorily, for only the home state. A large majority favored a convention. Delegates were chosen, who met at the state house in Boston, Nov. 15, 1820; and John Adams, one of the original framers, declining the labor of presiding at the age of eightyfive, Isaac Parker, chief justice of the state supreme court, was chosen president. Jan. 9, 1821, having agreed to fourteen amendments, the convention chose a committee to examine the returns of

votes, and dismissed itself. The people voted on Monday, April 9: the committee, May 24, found that nine amendments had been ratified, five defeated. The governor, June 5, proclaimed the success of the nine amendments, which became operative July 4, 1821. In 1851, the people voted not to call a revising convention; but in 1852 they voted to call one; and elected delegates in March, 1853. This convention organized at the state house in Boston, May 4, with Nathaniel P. Banks, Junior, for president. The convention ended its work and dissolved itself Aug. 1. The people voted no to the revision and the amendments; but in 1855 made haste to add six amendments to the long complexity. To this day, therefore, no revision has been ratified, although twentyeight amendments have been made and ratified. The original constitution having no rule for amendments after 1795, the amendment now numbered the ninth was ratified in 1821, to furnish a rule; and all amendments since have regularly passed two successive legislatures before coming to the people. The dates at which the parts of the constitution have been voted upon by the people, then, are these.

Body of constitution, betw. March 2 and June 7, 1780.	
Amendments 1, 2, 3, 4, 5, 6, 7, 8, 9,	April 9, 1821.
Amendment 10,	May 11, 1831.
Amendment 11,	November 11, 1833.
Amendment 12,	November 14, 1836.
Amendment 13,	April 6, 1840.
Amendments 14, 15, 16, 17, 18, 19,	May 23, 1855.
Amendments 20, 21, 22,	May 1, 1857.
Amendment 23,	May 9, 1859.
Amendments 24, 25,	May 7, 1860.
Amendment 26,	April 6, 1863.
Amendment 27,	November 6, 1877.
Amendment 28,	November 8, 1881.

NEW SALEM, DEC. 31, 1883.

EFFECTS OF AMENDMENTS.

	Voted by people.
1. Governor's objection kills a bill left by adjournment.	1821.
2. Cities of 12000 and more, established by legislature which may annul bylaws.	"
3. Voters generally described: exceptions in 20 and 28.	"
4. Notaries appointed for seven years by governor and council: removable by governor and council: commissary general, if needed: militia officers removable.	"
5. Militia minors vote for company officers.	"
6. Oath and affirmation of allegiance given.	"
7. Allegiance and office the only oaths.	"
8. Offices, not allowed together in one man.	"
9. Amendment passes senate by majority, house by two thirds: so in next legislature: then people vote.	"
10. Governmental year begins first Wednesday in January: sitting of legislature ends day before. Rest of no. 10 dead since May 23, 1855.	1831.
11. Religious societies independent: no sect lawfully rules another.	1833.
12. Census ordered, and representation rearranged. Am. dead since April 6, 1840.	1836.
13. Council, senate, house, by last clause, open to citizens without property. Rest of no. 13 dead since May 1, 1857.	1840.
14. Plurality established in elections.	1855.

- | | | |
|-----|--|-------|
| 15. | Election of state officers fixed on "the Tuesday next after the first Monday in November." | 1855. |
| 16. | Councillors, beside lieutenant governor, eight from eight districts: not fewer than five act with the governor on returns of elections: vacancies filled, of governor and lieutenant governor. | " |
| 17. | Heads of bureaux chosen yearly: must have been citizens five years when chosen: vacancies filled. | " |
| 18. | Public school money not for any sect: spent under town and city officers. | " |
| 19. | County officers and district attorneys chosen by the people. | " |
| 20. | Voter must read English, and write his name; if not unfitted bodily, nor 60 years old in 1857, May 1. | 1857. |
| 21. | Representatives: 240 memberships, fixed upon each state census: counties districted: one latest year's residence in district: 100 representatives a quorum. | " |
| 22. | Senators: 40 memberships, upon censuses: 40 districts: residence of five latest years in state: 16 senators a quorum. | " |
| 23. | Naturalized citizens waited two years before voting. Am. dead since April 6, 1863. | 1859. |
| 24. | Senate's vacancies filled by new elections by people. | 1860. |
| 25. | Council's vacancies filled by legislature; or by governor and council. | " |
| 26. | Twentythird amendment annulled. | 1863. |
| 27. | Harvard university officers may become senators or representatives: cancels forbiddance in constitution, chap. 6, sec. 2. | 1877. |
| 28. | Veterans of U. S. army and navy not disfranchised by pauperism, nor by failure to pay poll taxes if paupers. | 1881. |
- [For days of months when voted, see p. xii.]

SAYINGS.

What constitutes a state? Not highraised battlements: no: men,
highminded, who their duties know, but know their rights.

And sover'ign law, that state's collected will,
Sits empress, crowning good, repressing ill.

SHORTENED FROM SIR WILLIAM JONES.

They love their land because it is their own,
And scorn to give aught other reason why.

FITZ GREEN HALLECK.

A commonwealth can not be well conducted under the command
of many.

CORNELIUS NEPOS.

Words are to be so understood that the subject matter may be
preserved rather than destroyed.

Truth is afraid of nothing but concealment.

Justice knows neither father nor mother: justice looks to truth alone.

Justice is not to be denied nor delayed.

A public right can not be changed by private agreement.

The law regards the order of nature.

FROM THE LATIN.

Where law ends, tyranny begins.

EARL OF CHATHAM.

The law looks forward, not backward.

The law compels no man to do impossibilities.

FROM THE LATIN.

Nothing is law that is not reason.

SIR JOHN POWELL.

Law is the perfection of reason, which commands what is useful
and necessary, and forbids the contrary.

FROM THE LATIN.

Our human laws are but the copies, more or less imperfect, of the
eternal laws, so far as we can read them.

FROUDE.

The first great law is to obey.

SCHILLER.

He who obeys with modesty, appears worthy of being some day
allowed to command.

CICERO.

THE MAYFLOWER CONSTITUTION,

SIGNED NOV. 11, 1620.

IN THE NAME OF GOD, AMEN; WE WHOSE NAMES ARE UNDERWRITTEN, THE LOYAL SUBJECTS OF OUR DREAD SOVEREIGN KING JAMES, HAVING UNDERTAKEN, FOR THE GLORY OF GOD, AND ADVANCEMENT OF THE CHRISTIAN FAITH, AND HONOR OF OUR KING AND COUNTRY, A VOYAGE TO PLANT THE FIRST COLONY IN THE NORTHERN PARTS OF VIRGINIA, DO, BY THESE PRESENTS, SOLEMNLY AND MUTUALLY, IN THE PRESENCE OF GOD, AND ONE OF ANOTHER, COVENANT AND COMBINE OURSELVES TOGETHER, INTO A CIVIL BODY POLITIC, FOR OUR BETTER ORDERING AND PRESERVATION, AND FURTHERANCE OF THE ENDS AFORESAID; AND BY VIRTUE HEREOF, TO ENACT, CONSTITUTE, AND FRAME, SUCH JUST AND EQUAL LAWS, ORDINANCES, ACTS, CONSTITUTIONS, AND OFFICES, FROM TIME TO TIME, AS SHALL BE THOUGHT MOST CONVENIENT FOR THE GENERAL GOOD OF THE COLONY. UNTO WHICH WE PROMISE ALL DUE SUBMISSION AND OBEDIENCE.

PREAMBLE.

THE end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain, and establish, the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS.

ADJUSTED CONSTITUTION OF MASSACHUSETTS.

RIGHTS OF INHABITANTS.

RIGHTS: ART. I, II; AM. XI.

Equality
in law:
natural rights.

1. (1780.) All men are born free and equal, and have certain natural, essential, and inalienable rights; among which are the rights of enjoying and defending their lives and liberties, of acquiring, possessing and protecting property; and, broadly, of seeking and obtaining their safety and happiness.

Worship:
protection
therein.
2 Cush. 104.
12 Allen, 129.

2. (1780.) It is the right of all men in society, publicly, and at stated seasons, to worship the Supreme Being, the great Creator and Preserver of the universe. And no citizen shall be hurt, molested nor restrained, in his person, liberty nor estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; nor for his religious profession nor sentiments; if he doth not disturb the public peace, nor hinder others in their religious worship.

3. (Am. 11, 1833.) As the public worship of God, and instructions in piety, religion and morality, promote the happiness

ORIGINAL CONSTITUTION OF MASSACHUSETTS.

PART THE FIRST.

*A Declaration of the Rights of the Inhabitants of the
Commonwealth of Massachusetts.*

ARTICLE I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

III. [As the happiness of a people, and the good order and preservation of civil government, essentially

 RIGHTS: AM. XI; ART. IV.

Religious freedom.	and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right
Society rights.	to elect their pastors or religious teachers, to contract with them for their support, to
122 Mass., 40, 41.	raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and each person belonging to any religious society shall be taken and held to be a member, until he shall file with the clerk of that society a written notice declaring the dissolution of his membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made or entered into by that society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect nor denomination to another shall ever be established by law.
Sects alike in law.	
Self government.	4. (1780.) The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction and right, which is not, or may not hereafter be, by them

depend upon piety, religion, and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of God, and of public instructions in piety, religion, and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily.

And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

And all moneys, paid by the subject to the support of public worship, and of the public teachers aforesaid,

RIGHTS: ART. V, VI, VII.

expressly delegated to the United States of America.

Officers, people's agents. 5. (1780.) All power dwelt first in the people, and was derived from them; wherefore the several magistrates and officers of government, vested with authority, legislative, executive or judicial, are their substitutes and agents, and are at all times accountable to them.

Privileges common. 6. (1780.) No man, nor corporation, nor association of men, has any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, nor to descendants, nor to relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

No heredity of office.

Government for common good. 7. (1780.) Government is established for the common good, for the protection, safety, prosperity and happiness of the people; and not for the profit, honor, nor private interest of any one man, family, nor class of men: therefore the people alone have an incontestable, inalienable and indefeasible right to institute government; and to reform, alter or totally change it, when their protection, safety, prosperity and happiness require their action.

People can reform it.

shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends ; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law : and no subordination of any one sect or denomination to another shall ever be established by law.]

IV. The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state ; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter be, by them expressly delegated to the United States of America, in Congress assembled.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

VI. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the conside-

RIGHTS: ART. VIII, IX, X.

8. (1780.) To prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such ways as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

Right of people
to change
officers.

9. (1780.) All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have equal rights to elect officers, and to be elected, for public employments.

Any voter a
public servant.

122 Mass.
595, 596.

10. (1780.) Each inhabitant of the commonwealth has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual, can, with justice, be taken from him, or applied to public uses, but by his own consent, or by that of the representative body of the people. The people of this commonwealth are not controllable by any other laws, than those to which their constitutional representative body has given its consent; and whenever the public exigencies require that the property of any individual shall be

Protection and
contribution
correlative.

Taxation and
consent.

16 Mass. 326.
1 Pick. 418.
7 Pick. 344.
12 Pick. 184, 467.
16 Pick. 87.
23 Pick. 360.
7 Met. 388.
4 Gray, 474.
7 Gray, 363.
14 Gray, 154.
1 Allen, 150.
4 Allen, 474.
Private property and public uses.
6 Cush. 327.
14 Gray, 155.
16 Gray, 417, 431.
1 Allen, 150.
11 Allen, 530.
12 Allen, 223, 230.
100 Mass. 544, 560.
103 Mass. 120, 124.

ration of services rendered to the public ; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

VII. Government is instituted for the common good ; for the protection, safety, prosperity, and happiness of the people ; and not for the profit, honor, or private interest of any one man, family, or class of men : Therefore the people alone have an incontestible, unalienable, and indefeasible right to institute government ; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life ; and to fill up vacant places by certain and regular elections and appointments.

IX. All elections ought to be free ; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws. He is

RIGHTS: ART. XI, XII, XIII.

106 Mass. 356, 362. appropriated to public uses, he shall receive a reasonable compensation therefor.
 108 Mass. 202, 213.
 111 Mass. 130.

113 Mass. 45. 126 Mass. 428, 441. 127 Mass. 50, 52,
 116 Mass. 463. 129 Mass. 559. 358, 363, 410, 413.

Remedies by
 law, free and
 prompt.

11. (1780.) Every citizen of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, without being obliged to purchase them; completely, without any denial; promptly, without delay; conformably to the laws.

Prosecutions
 regulated.

8 Pick. 211.

10 Pick. 9.

18 Pick. 434.

21 Pick. 542.

2 Met. 329.

12 Cush. 246.

1 Gray, 1.

5 Gray, 160.

8 Gray, 329.

10 Gray, 11.

11 Gray, 438.

2 Allen, 361.

11 Allen, 238-

240, 264, 439, 473.

12 Allen, 170.

97 Mass. 570, 573.

100 Mass. 287, 295.

103 Mass. 418.

107 Mass. 172, 180.

108 Mass. 5, 6.

12. (1780.) No citizen shall be held to answer for any crime nor offence, until the same is fully and plainly, substantially and formally, described to him; nor be compelled to accuse, nor furnish evidence against, himself; and every person shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, as he chooses; and no citizen shall be arrested, imprisoned, despoiled nor deprived of his property, immunities, nor privileges, put out of the protection of the law, exiled, nor deprived of his life, liberty, nor estate, but by the judgment of his peers, or the law of the land.

118 Mass. 443, 451.

122 Mass. 332.

127 Mass. 550, 554.

120 Mass. 118, 120.

124 Mass. 464.

129 Mass. 559.

Jury in
 criminal cases.

13. The legislature shall not make any law, excepting for the government of the

obliged, consequently, to contribute his share to the expense of this protection ; to give his personal service, or an equivalent, when necessary : but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it ; completely, and without any denial ; promptly, and without delay ; conformably to the laws.

XII. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially, and formally, described to him ; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to him ; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned,

RIGHTS: ART. XIII, XIV, XV.

8 Gray, 329, 373. son to a capital or infamous punishment
103 Mass. 418. without trial by jury.

Crimes proved where done. 14. (1780.) In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty and property of the citizen.

15. (1780.) Every citizen has a right to be secure from all unreasonable searches and seizures, of his person, his houses, his papers and all his possessions. All warrants, therefore, are contrary to this right, if the causes or foundations of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities, prescribed by the laws.

16. (1780.) In all controversies concerning property, and in all suits between two or more persons, wherein the practice has not heretofore been otherwise, the contestants have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and in such as relate to mari-

Search and seizure regulated.
Const. of U. S. Amend. IV.
2 Met. 329.
5 Cush. 369.
1 Gray, 1.
13 Gray, 454.
10 Allen, 403.
100 Mass. 136, 139.
126 Mass. 269, 273.

Trial by jury sacred.

Const. of U. S. Amend. VII.

2 Pick. 382.
7 Pick. 366.
5 Gray, 144.
8 Gray, 373.

despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

XIII. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

XIV. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred,

RIGHTS: ART. XVI, XVII, XVIII, XIX.

11 Allen, 574, 577. ners' wages, the legislature shall hereafter
102 Mass. 45, 47. need to alter it.

114 Mass. 388, 390.

122 Mass. 505, 516.

125 Mass. 182, 188.

120 Mass. 320, 321.

123 Mass. 590, 593.

128 Mass. 600.

Press free.

17. (1780.) The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth.

Weapons, keep
and bear.

18. (1780.) The people have a right to keep and to bear arms for the common defence; and as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in exact subordination to the civil authority, and be governed by it.

Civil power
above military.

5 Gray, 121.

19. (1780.) A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives; and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

Morals and
officers.

20. (1780.) The people have a right, in an orderly and peaceable manner, to as-

unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

XVI. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth.

XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all these principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the

RIGHTS: ART. XX, XXI, XXII, XXIII, XXIV. ~

People may instruct and petition. seemble to consult upon the common good ; to give instructions to their representatives, and to request of the legislative body, through addresses, petitions or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

Laws, suspension. **21.** (1780.) The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in only such particular cases as the legislature shall expressly provide for.

Debate free: reason. **22.** (1780.) The freedom of deliberation, speech and debate, in each house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation nor prosecution, action nor complaint, in any other court nor place whatsoever.

Sittings frequent. **23.** (1780.) The legislature ought frequently to sit for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new laws, as the common good may require.

Taxes by consent. **24.** (1780.) No subsidy, charge, tax, impost, nor duties ought to be fixed, nor levied, under any pretext whatever, without the consent of the people, or of their representatives in the legislature.

Actions punished by co-existing laws. **25.** (1780.) Laws made to punish actions done before the existence of such laws, and when those actions have not been

way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXI. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

XXIII. No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

RIGHTS: ART. XXV, XXVI, XXVII, XXVIII, XXIX.

declared crimes by preceding laws, are unjust, oppressive and inconsistent with the fundamental principles of a free government.

Legislature not
a criminal
court.

26. (1780.) No citizen ought in any case, nor at any time, to be declared guilty of treason, nor of felony by the legislature.

Excessive bail,
fines and pun-
ishments pro-
hibited.
5 Gray, 482.

27. (1780.) No magistrate nor court of law shall demand excessive bail nor sureties, impose excessive fines, nor inflict cruel nor unusual punishments.

Quarters in
houses, owners'
consent.

28. (1780.) In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

Martial law by
legislature only.

29. (1780.) No person except those employed in the army or navy, and except the militia in actual service, can in any case be subject to martial law, nor to any penalties nor pains, by virtue of that law, but by authority of the legislature.

Judges of su-
preme court.

3 Pick. 471.
1 Gray, 472.
4 Allen, 591.
7 Allen, 385.
105 Mass. 219,
221, 225.

30. (1780.) It is essential to the preservation of the rights of every individual, of his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of

XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

XXX. In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial

 RIGHTS : ART. XXX ; FRAME ; CON., CHAP. I, SEC. I, ART. I.

the people, and of every citizen, that the judges of the supreme judicial court shall hold their offices as long as they behave themselves well ; and that they shall have honorable salaries ascertained and established by standing laws.

31. (1780.) In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, nor either of them : the executive shall never exercise the legislative and judicial powers, nor either of them : the judicial shall never exercise the legislative and executive powers, nor either of them : to the end it may be a government of laws and not of men.

During good behavior.

Salaried.

Each body to its own duties.

2 Cush. 577.

2 Allen, 361.

8 Allen, 247, 253.

100 Mass. 282, 286.

114 Mass. 247, 249.

116 Mass. 317.

129 Mass. 559.

FRAME OF GOVERNMENT.

32. (1780.) The people, inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign and independent body politic or state, by the name of The Commonwealth of Massachusetts.

Name of State.

GENERAL COURT.

33. (1780.) The department of legislation shall be formed of two branches, a senate and a house of representatives, each of which shall have a negative on the other.

Legislature, two houses.

powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

PART THE SECOND.

The Frame of Government.

The people, inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body politic, or state, by the name of THE COMMONWEALTH OF MASSACHUSETTS.

CHAPTER I.

THE LEGISLATIVE POWER.

SECTION I.

The General Court.

ARTICLE I. The department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other.

The legislative body shall assemble every year [on the last Wednesday in May, and at such other times

CON.: AM. X; CHAP. I, SEC. I, ART. II.

The legislative body shall be styled,
The General Court of Massachusetts.

34. (Am. 10, 1831.) The political year shall begin on the first Wednesday of January; and the general court shall sit for business every year on the first Wednesday of January, and shall proceed, at that session, to make all the elections, and to do all the other acts, which are by the constitution required to be made and done; and the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from sitting at such other times as it shall judge necessary, or when called into session by the governor. The governor, lieutenant governor and councillors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their places.

Governmental
year begins.

Legislature
dissolved.

35. (1780.) No bill nor resolve of the senate nor of the house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revisal; and if he, upon revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the signing of a bill or resolve, he shall return the paper, with his objections thereto in writing, to the

Veto.

99 Mass. 636.

as they shall judge necessary ; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May ;] and shall be styled, THE GENERAL COURT OF MASSACHUSETTS.

II. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revisal ; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichsoever the same shall have originated ; who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law : but in all such cases, the votes of both houses shall be determined by yeas and nays ; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the commonwealth.

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor

CON.: CHAP. I, SEC. I, ART. II; AM. I.

Two thirds can
pass.

senate or house of representatives, in which-
ever the same shall have originated, which
shall enter the objections sent down by the
governor, at large, on its records, and pro-
ceed to reconsider the bill or resolve; but
if, after such reconsideration, two thirds of
the senate or house of representatives, shall,
notwithstanding the objections, agree to
pass the bill or resolve, it shall, with the
objections, be sent to the other branch of
the legislature, where it shall also be re-
considered; and, if approved by two thirds
of the members present, shall have the force
of a law; but in all such cases, the votes
of both houses shall be determined by yeas
and nays; and the names of the persons
voting for, or against the said bill or
resolve, shall be entered upon the public
records of the commonwealth.

Bill five days
old, law.

36. (1780.) In order to prevent un-
necessary delays, if any bill or resolve shall
not be returned by the governor within five
session days after it shall have been presen-
ted, the same shall have the force of a law.

Except in
adjournment.

3 Mass. 567.

See Const., Ch.
I. § 1, Art. II.

37. (Am. 1, 1821.) If any bill or re-
solve shall be objected to, and not approved
by the governor; and if the general court
shall adjourn within five days after the same
shall have been laid before the governor for
his approbation, and thereby prevent his
returning it with his objections, as provided
by the constitution, such bill or resolve shall
not become a law, nor have force as such.

within five days after it shall have been presented, the same shall have the force of a law.

III. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, complaints, actions, matters, causes, and things, whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same: whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon. To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

IV. And further, full power and authority are hereby given and granted to the said general court, from time to time to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for

CON.: CHAP. I, SEC. I, ART. III; AM. XIX, II.

38. (1780.) The general court shall forever have full power and authority to erect and constitute courts of justice and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying and determining of all manner of crimes, offences, pleas, processes, complaints, actions, matters, causes and things, whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting, or residing, or brought within it; whether the causes be criminal or civil, or whether the crimes be capital or not capital, and whether the pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon: to all which courts are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

Courts of Jus-
tice and of
Record.

8 Gray, 1.
12 Gray, 147, 154.

Swear
witnesses.

Sheriffs, regis-
ters and others,
by people.

8 Gray, 1.
13 Gray, 74.
110 Mass. 172, 173.
117 Mass. 602, 603.
121 Mass. 65.

39. (Am. 19, 1855.) The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, commissioners of insolvency, and clerks of the courts, by the people of the several counties; and that district attorneys shall be chosen by the people of the several districts, for such terms of office as the legislature shall prescribe.

40. (Am. 2, 1821.) The general court shall have full power and authority to erect

the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws for the naming and settling, all civil officers within the said commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the said commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in

 CON.: AM. II; CHAP. I, SEC. I, ART. IV.

 City
Governments.

122 Mass. 354.

 12,000 inhab.
at least.

112 Mass. 200.

 General Court
may enact laws.

9 Gray, 426.

4 Allen, 473.

12 Allen, 223, 237.

100 Mass. 544, 557.

116 Mass. 467, 470.

 But not against
constitution.

6 Allen, 358.

and constitute municipal or city governments, in any corporate towns in this commonwealth, and to grant to the inhabitants thereof such powers, privileges, and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof; and to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise, for the election of officers under the constitution; and the manner of returning the votes given at such meetings; but no such government shall be erected nor constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and held for that purpose; and all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court.

41. (1780.) Full power and authority are given to the general court, from time to time to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; if the same be not repugnant nor contrary to this constitution, which they shall judge to be for the good and welfare of this com-

the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order.

CHAPTER I.

SECTION II.

Senate.

ARTICLE I. [There shall be annually elected, by the freeholders and other inhabitants of this commonwealth, qualified as in this constitution is provided, forty persons to be councillors and senators for the year ensuing their election; to be chosen by the inhabitants of the districts into which the commonwealth may, from time to time, be divided by the general court for that purpose: and the general court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the commonwealth the limits of each district, and the number of councillors and senators to be chosen therein; provided, that the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six senators.

And the several counties in this commonwealth shall,

CON.: CHAP. I, SEC. I, ART. IV.

monwealth, and for the government and ordering thereof, and of the citizens of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws for the naming and settling of, all civil officers within the commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, if the same be not contrary to this constitution; and to impose and levy proportional and reasonable assessments, and taxes, upon all the inhabitants of, and persons resident and estates lying within, the said commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities, whatever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the commonwealth, and the protection and preservation

Name needful
officers.

115 Mass. 602.

Their duties.

Impose taxes.

12 Mass. 252.

5 Allen, 428.

6 Allen, 558.

8 Allen, 247, 253.

10 Allen, 235.

11 Allen, 268.

12 Allen, 77, 223,

235, 238, 240,

298, 300, 312,

313, 500, 612.

98 Mass. 19.

100 Mass. 285.

101 Mass. 575, 585.

103 Mass. 267.

114 Mass. 388, 391.

116 Mass. 461.

118 Mass. 386, 389.

123 Mass. 493, 495.

127 Mass. 413.

until the general court shall determine it necessary to alter the said districts, be districts for the choice of councillors and senators, (except that the counties of Dukes County and Nantucket shall form one district for that purpose) and shall elect the following number for councillors and senators, viz.:—Suffolk, six; Essex, six; Middlesex, five; Hampshire, four; Plymouth, three; Barnstable, one; Bristol, three; York, two; Dukes County and Nantucket, one; Worcester, five; Cumberland, one; Lincoln, one; Berkshire, two.]

II. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz.: there shall be a meeting on the [first Monday in April,] annually, forever, of the inhabitants of each town in the several counties of this commonwealth; to be called by the selectmen, and warned in due course of law, at least seven days before the [first Monday in April,] for the purpose of electing persons to be senators and councillors; [and at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate within the commonwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the senators for the district of which he is an inhabitant.] And to remove all doubts concerning the meaning of the word "inhabitant" in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office,

CON.: CH. I, S. II, AR. IV; AM. XXII; CH. I, S. II, AR. II.

of the inhabitants thereof, according to such acts as are or shall be in force within the same.

42. (1780.) While the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order.

Taxes for defence and protection.
8 Allen, 247, 256.
Valuation once in ten years.
8 Allen, 247.
126 Mass. 557.

43. (Am. 22, 1857.) A census of the inhabitants of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforementioned, a special enumeration shall be made of the legal voters; and in each city the enumeration shall specify the number of legal voters, residing in each ward of the city. The enumeration shall determine the apportionment of senators and representatives for the periods between the takings of the census.

Census of inhabitants.
Statutes, ch. 31.
Basis of senatorships and representative-ships.

44. (1780.) To remove all doubts concerning the meaning of the word inhabitants, in this constitution, every person shall be considered as an inhabitant, for the purpose

Inhabitants, who are.
12 Gray, 21.
122 Mass. 595, 597.

or place within this state, in that town, district, or plantation where he dwelleth, or hath his home.

The selectmen of the several towns shall preside at such meetings impartially ; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name : and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before [the last Wednesday in May] annually ; or it shall be delivered into the secretary's office seventeen days at least before the said [last Wednesday in May :] and the sheriff of each county shall deliver all such certificates by him received, into the secretary's office, seventeen days before the said [last Wednesday in May.]

And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for councillors and sen-

 CON.: AM. III, XXVIII.

of electing and being elected into any office, or place within this state, in that town, district, or plantation, where he dwelleth, or hath his home.

Voters,
who are.

11 Pick. 538, 540.
14 Pick. 341.
14 Mass. 367.
5 Met. 162, 298,
591, 594.
7 Gray, 299.
122 Mass. 595, 597.
124 Mass. 596.

45. (Am. 3, 1821.) Every male citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship, who shall have resided within the commonwealth one year, and within the town or district, in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant governor, senators or representatives, and who shall have paid, by himself or his parent, master or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall be by law exempted from taxation, and who shall be in all other respects qualified as above mentioned, shall have a right to vote in that election of governor, lieutenant governor, senators and representatives; and no other person shall be entitled to vote in that election.

Veterans of
U. S. army and
navy not dis-
qualified.

46. (Am. 28, 1881.) But no person having served in the army or navy of the United States in time of war, and having been honorably discharged from that service, if otherwise qualified to vote, shall be disqualified therefor on account of being a pauper; nor, if a pauper, because of the non-payment of a poll tax.

ators in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held annually [on the same first Monday in April], at such places in the plantations, respectively, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns, by this constitution. And all other persons living in places unincorporated (qualified as aforesaid) who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of giving in their votes for councillors and senators in the town where they shall be assessed, and be notified of the place of meeting by the selectmen of the town where they shall be assessed, for that purpose, accordingly.

III. And that there may be a due convention of senators on the [last Wednesday in May] annually, the governor with five of the council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be chosen by [a majority of] voters, to attend on that day, and take their seats accordingly: provided, nevertheless, that for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall, in like manner,

CON.: AM. XX, XIV, XV, XIII.

47. (Am. 20, 1857.) No person shall have the right to vote, nor be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name; but the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect.

Voters to read
and write.

48. (Am. 14, 1855.) In all elections of civil officers by the people of this commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

Election by
plurality of
votes.

49. (Am. 15, 1855.) The meeting for the choice of governor, lieutenant governor, senators and representatives, shall be held on the Tuesday next after the first Monday in November, annually; but in case of a failure to elect representatives on that day, a second meeting shall be held for that purpose, on the fourth Monday of the same month of November.

State election
day.

50. (Am. 13, 1840.) No possession of a freehold, nor of any other estate, shall be required as a qualification for holding a seat in either branch of the general court, nor in the executive council.

Freehold not
required.

issue his summons to the persons so elected, that they may take their seats as aforesaid.

IV. The senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the constitution; and shall, [on the said last Wednesday in May] annually, determine and declare who are elected by each district to be senators [by a majority of votes; and in case there shall not appear to be the full number of senators returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz. : The members of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these shall elect by ballot a number of senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled up in every district of the commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be, after such vacancies shall happen.]

V. Provided, nevertheless, that no person shall be capable of being elected as a senator, [who is not seised in his own right of a freehold, within this commonwealth, of the value of three hundred pounds at least, or possessed of personal estate to the value of six hun-

CON.: CHAP. I, SEC. II, ART. II; AM. XXII.

SENATE.

51. (1780; Am. 22, 1857.) The senate shall be the first branch of the legislature, and shall consist of forty members.

Senate to consist of forty members.

52. (Am. 22, 1857.) Not fewer than sixteen senators shall constitute a quorum for doing business; but a smaller number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

Sixteen members a quorum.

53. (Am. 22, 1857.) The general court shall, at its first session after each next preceding special enumeration, divide the commonwealth into forty districts of adjacent territory, each district to contain, as nearly as it may, one number of legal voters which shall be common to all the districts, according to that enumeration; but no town nor ward of a city shall be divided therefor; and such districts shall be formed, as nearly as they may, without uniting two counties, or parts of two or more counties, into one district. Each district shall elect one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent that senatorial district when he shall cease to be an inhabitant of the commonwealth.

Senatorial districts, etc.

Towns and wards whole.

Qualifications of senators.

54. (1780.) At least seven days before

dred pounds at least, or of both to the amount of the same sum, and] who has not been an inhabitant of this commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district for which he shall be chosen.

VI. The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

VII. The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings.

VIII. The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the commonwealth, for misconduct and mal-administration in their offices. But previous to the trial of every impeachment the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this commonwealth: but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

IX. Not less than sixteen members of the senate shall constitute a quorum for doing business.

CON.: CHAP. I, SEC. II, ART. II.

Warning time.

the Tuesday of the state election, yearly and forever, the selectmen of each town in the several counties of this commonwealth shall call and warn in due course of law a meeting of the inhabitants of each town, to elect persons to be senators.

Selectmen pre-
side.

55. (1780.) The selectmen of each town shall preside at that meeting impartially, and shall receive the votes of all the inhabitants of the town present and qualified to vote for senators, and shall sort and count the votes in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, and be directed to the secretary of the commonwealth, for the time being, with a superscription expressing the purport of the contents thereof, and be delivered by the town clerk of each town

Clerk returns
votes.

to the sheriff of the county in which that town lies, thirty days at least before the first Wednesday in January, annually; or it shall be delivered into the secretary's office seventeen days at least before the first Wednesday in January; and the sheriff of each county shall deliver all such certificates, by him received, into the secretary's office, seventeen days before the first Wednesday in January.

CHAPTER I.

SECTION III.

House of Representatives.

ARTICLE I. There shall be, in the legislature of this commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.

II. [And in order to provide for a representation of the citizens of this commonwealth, founded upon the principle of equality, every corporate town containing one hundred and fifty ratable polls may elect one representative; every corporate town containing three hundred and seventy-five ratable polls may elect two representatives; every corporate town containing six hundred ratable polls may elect three representatives; and proceeding in that manner, making two hundred and twenty-five ratable polls the mean increasing number for every additional representative.

Provided, nevertheless, that each town now incorporated, not having one hundred and fifty ratable polls, may elect one representative; but no place shall hereafter be incorporated with the privilege of electing a representative, unless there are within the same one hundred and fifty ratable polls.]

And the house of representatives shall have power from time to time to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

CON.: CHAP. I, SEC. II, ART. III, IV, VI, VII, VIII; AM. XXIV.

56. (1780.) That there may be a due convention of senators on the first Wednesday in January annually, the governor with five councillors for the time being, shall, as soon as he may, examine the returned copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be chosen by a plurality of voters, to attend on that day, and take their seats accordingly.

Governor and
council exam-
ine returns:
issue
summonses.

57. (1780.) The senate shall be the final judge of the elections, returns and qualifications of its own members, as pointed out in the constitution; and shall, on the first Wednesday in January annually, determine and declare who is elected by each district to be senator.

Judge of
elections of its
own members.

58. (Am. 24, 1860.) Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of the senators elected.

Vacancies in
the senate.

59. (1780.) The senate shall have power to adjourn itself; but for not more than two days.

Adjourn for not
more than two
days.

60. (1780.) The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings.

Choose its offi-
cers: establish
its rules.

61. (1780.) The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives, against any officer of the commonwealth, for misconduct and bad

Try impeach-
ments.

The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave.

III. Every member of the house of representatives shall be chosen by written votes; [and, for one year at least next preceding his election, shall have been an inhabitant of, and have been seised in his own right of a freehold of the value of one hundred pounds within the town he shall be chosen to represent, or any ratable estate to the value of two hundred pounds; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid.]

IV. [Every male person, being twenty-one years of age, and resident in any particular town in this commonwealth for the space of one year next preceding, having a freehold estate within the same town of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town.]

V. [The members of the house of representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.]

VI. The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by them shall be heard and tried by the senate.

CON.: CHAP. I, SEC. II, ART. VIII; SEC. III, ART. I; AM. XXI.

<p>Be sworn.</p> <p>Limitation of sentence.</p>	<p>administration in his office. But previous to the trial of every impeachment the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this commonwealth; but every person so convicted shall be, nevertheless, liable to indictment, trial, judgment and punishment, according to the laws of the land.</p>
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REPRESENTATIVES.

<p>Representation of the people.</p>	<p>62. (1780.) There shall be, in the legislature of this commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.</p>
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<p>240 members. 10 Gray, 613.</p>	<p>63. (Am. 21, 1857.) The house of representatives shall consist of two hundred and forty members.</p>
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<p>Quorum, 100 members.</p>	<p>64. (Am. 21, 1857.) Not fewer than one hundred representatives shall constitute a quorum for doing business; but a smaller number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.</p>
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65. (Am. 21, 1857.) The memberships shall be apportioned by the legislature at its first session after the return of each enumeration of the census from which the senatorial districts are formed, and for the

VII. All money bills shall originate in the house of representatives ; but the senate may propose or concur with amendments, as on other bills.

VIII. The house of representatives shall have power to adjourn themselves ; provided such adjournment shall not exceed two days at a time.

IX. [Not less than sixty members of the house of representatives shall constitute a quorum for doing business.]

X. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution ; shall choose their own speaker ; appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment every person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence ; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house ; or who shall assault any of them therefor ; or who shall assault, or arrest, any witness, or other person, ordered to attend the house, in his way in going or returning ; or who shall rescue any person arrested by the order of the house.

And no member of the house of representatives shall be arrested, or held to bail on mean process, during his going unto, returning from, or his attending the general assembly.

CON.: AM. XXI.

Dividing board
of county
certified to.

Meeting for
division,
first Tuesday
in August.

Proceedings.

same period of ten years : apportioned, as nearly as may be, equally according to the number of lawful voters in each county ; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as herein provided, be considered a part of the county of Plymouth ; and it shall be the duty of the secretary of the commonwealth to certify to the board authorized to divide each county into representative districts, as soon as he can, after it is determined by the legislature, the number of representatives to which each county shall be entitled. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk ; or, instead of the mayor, aldermen, and commissioners specified, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as the law may direct ; shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as they may, to divide each county into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county ; and such districts shall be so formed that no town nor ward of

XI. The senate shall have the same powers in the like cases ; and the governor and council shall have the same authority to punish in like cases : provided, that no imprisonment on the warrant or order of the governor, council, senate, or house of representatives, for either of the above described offences, be for a term exceeding thirty days.

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best.

CHAPTER II.

EXECUTIVE POWER.

SECTION I.

Governor.

ARTICLE I. There shall be a supreme executive magistrate, who shall be styled—THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS ; and whose title shall be—HIS EXCELLENCY.

II. The governor shall be chosen annually ; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding ; and unless he shall at the same time be seised, in his own right, of a freehold, within the commonwealth, of

CON.: AM. XXI; CHAP. I, SEC. III, ART. III, II.

Residence
of a repre-
sentative.

122Mass.595,598.

Districts num-
bered, des-
cribed, certified.

a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent that district when he shall cease to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating them, and a description of each district with the number thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the commonwealth, to the county treasurer of each county, and to the clerk of each town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law; but every representative shall be chosen by written votes.

Towns may be
fined.

66. (1780.) The house of representatives shall have power, from time to time, to impose fines upon such towns as shall neglect to choose and return members to the house agreeably to this constitution.

Travelling
expenses.

67. (1780.) The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall

the value of one thousand pounds ; [and unless he shall declare himself to be of the Christian religion.]

III. Those persons who shall be qualified to vote for senators and representatives within the several towns of this commonwealth shall, at a meeting to be called for that purpose, on the [first Monday of April] annually, give in their votes for a governor, to the selectmen, who shall preside at such meetings ; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name ; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting ; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the [last Wednesday in May] ; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the said [last Wednesday in May] ; or the selectmen may cause returns of the same to be made to the office of the secretary of the commonwealth, seventeen days at least before the said day ; and the secretary shall lay the same before the senate and the house of representatives on the [last Wednesday in May], to be by them examined ; and [in case of an election by a majority of all the votes returned], the choice shall be by them declared and published ; [but if no person shall have a

CON.: CHAP. I, SEC. III, ART. II, VI, VII, VIII, X.

attend as seasonably as he can, in the judgment of the house, and does not depart without leave.

68. (1780.) The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by it shall be heard and tried by the senate.

69. (1780.) All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

70. (1780.) The house of representatives shall have power to adjourn itself; but for not more than two days at a time.

71. (1780.) The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose its own speaker, appoint its own officers, and settle the rules and orders of proceeding in its own sessions. It shall

have authority to punish by imprisonment, every person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house; or who shall assault any member therefor; or who shall assault, or arrest any witness, or other person, ordered to attend the house, in his

House alone
can impeach.

Money bills
arise in house.

Adjourn for
not more than
two days.

Be judge of
elections of its
members.

Chooses its
officers;
makes its rules.

Punishes dis-
respect.

14 Gray, 226.

majority of votes, the house of representatives shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for ; but, if otherwise, out of the number voted for ; and make return to the senate of the two persons so elected ; on which the senate shall proceed, by ballot, to elect one, who shall be declared governor.]

IV. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being ; and the governor with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, agreeably to the constitution and the laws of the land.

V. The governor, with advice of council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same to any time the two houses shall desire ; [and to dissolve the same on the day next preceding the last Wednesday in May ; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess ;] and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same ; and in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the

CON.: CH. I, S. III, AR. X, XI; CH. II, S. I, AR. I, II.

way in going, or returning; or who shall rescue any person arrested by the order of the house.

Privileges.

72. (1780.) No member of the house of representatives shall be arrested, nor held to bail on mesne process, during his going unto, returning from, or attending, the general assembly.

Senate, governor and council, too, punish.

14 Gray, 226.

73. (1780.) The senate shall have the same powers in the like cases; and the governor and council shall have the same authority to punish in like cases; provided that no imprisonment, on the warrant or order of the governor, council, senate, or house of representatives, for any one of the above described offences, be for a term exceeding thirty days.

Trial at will of body.

74. (1780.) The senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may, respectively, think best.

GOVERNOR.

Governor.

Title.

To be chosen annually.

75. (1780.) The supreme executive magistrate shall be styled, the Governor of the Commonwealth of Massachusetts; and his title shall be, His Excellency.

76. (1780.) The governor shall be chosen annually; and no person shall be

members from their attendance, he may direct the session to be held at some other, the most convenient place within the state.

[And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May.]

VI. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment or prorogation, the governor, with advice of the council, shall have the right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

VII. The governor of this commonwealth, for the time being, shall be the commander-in-chief of the army and navy, and of all the military forces of the state, by sea and land; and shall have full power, by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise, and govern the militia and navy; and, for the special defence and safety of the commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repel, resist, expel, and pursue, by force of arms, as well by sea as by land, within or without the limits of this commonwealth, and also to kill, slay, and destroy, if necessary, and conquer, by all fitting ways, enterprises, and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enter-

CON.: CHAP. II, SEC. I, ART. II, III.

Qualifications. eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding; and unless he shall at the same time be seized, in his own right, of a freehold, within the commonwealth, of the value of three thousand four hundred and ninetyfive dollars and fourteen cents.

By whom chosen, if he have a plurality of votes.

Par. 49.

Returns.

77. (1780.) Those persons who shall be qualified to vote for senators and representatives within the several towns of this commonwealth shall, at the yearly meeting for the election of state officers, give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the first Wednesday of January; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the first Wednesday of January; or the selectmen may cause returns of the same to be

prise the destruction, invasion, detriment, or annoyance of this commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law-martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this commonwealth; and that the governor be intrusted with all these and other powers, incident to the offices of captain-general and commander-in-chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land, and not otherwise.

Provided, that the said governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this commonwealth; or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the state to which they cannot otherwise conveniently have access.

VIII. The power of pardoning offences, except such as persons may be convicted of before the senate

CON.: CHAP. II, S. I, ART. IV; S. II, AR. II; S. I, AR. V.

made to the office of the secretary of the commonwealth, seventeen days at least before that day; and the secretary shall lay the same before the senate and the house of representatives on the first Wednesday of January, to be by them examined, and the choice shall be by them declared and published.

Power of
governor
and council.

Par. 106, 110.

78. (1780.) The governor shall have authority, from time to time, at his discretion, to call together the councillors of this commonwealth for the time being; and the governor, with the said councillors, or five of them at least, shall, from time to time, hold and keep a council for the ordering and directing of the affairs of the commonwealth, agreeably to the constitution and the laws of the land.

President
of council.

79. (1780.) The governor when present shall be the president of the council, but shall have no vote in council.

May adjourn
the
general court
upon request:
and convene.

80. (1780.) The governor, with advice of the council, shall have full power and authority, during the session of the general court, to adjourn the same to any time the two houses shall desire; and to call it into session sooner than the time to which it may be adjourned, if the welfare of the commonwealth shall require its sitting; and, in case any infectious disorder prevail in the place where the general court is next at any time to convene, or any other cause happen whereby danger may

by an impeachment of the house, shall be in the governor, by and with the advice of council ; but no charter of pardon, granted by the governor, with advice of the council before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

IX. All judicial officers, [the attorney-general,] the solicitor-general, [all sheriffs,] coroners, [and registers of probate,] shall be nominated and appointed by the governor, by and with the advice and consent of the council ; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

X. The captains and subalterns of the militia shall be elected by the written votes of the train-band and alarm list of their respective companies, [of twenty-one years of age and upwards ;] the field officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments ; the brigadiers shall be elected, in like manner, by the field officers of their respective brigades ; and such officers, so elected, shall be commissioned by the governor, who shall determine their rank.

The legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and certifying to the governor, the officers elected.

The major-generals shall be appointed by the senate

CON.: CHAP. II, SEC. I, ART. V, VI, VII.

arise to the health or lives of the members from their attendance, he may direct the session to be held at some other, the most convenient place within the state.

Governor and
council may
adjourn legisla-
ture 90 days.

81. (1780.) In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment, the governor, with advice of the council, shall have a right to adjourn the general court, not exceeding ninety days, as he shall determine the public good shall require.

Commander in
chief.

82. (1780.) The governor of this commonwealth, for the time being, shall be the commander in chief of the army and navy, and of all the military forces of the state, by sea and land; and shall have full power, by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy; and, for the special defence and safety of the commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repel, resist, expel, and pursue, by force of arms, as well by sea as by land, within or without the limits of this commonwealth, and also to kill, slay, and destroy, if necessary, and conquer, by all fitting ways, enterprises, and means whatever, all such persons as shall, at any time hereafter, in a hostile manner, attempt the destruc-

and house of representatives, each having a negative upon the other ; and be commissioned by the governor.

And if the electors of brigadiers, field officers, captains or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the governor, with advice of council, shall appoint suitable persons to fill such offices.

[And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the governor, or by fair trial in court-martial, pursuant to the laws of the commonwealth for the time being.]

The commanding officers of regiments shall appoint their adjutants and quartermasters ; the brigadiers their brigade-majors ; and the major-generals their aids ; and the governor shall appoint the adjutant-general.

The governor, with advice of council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this commonwealth shall appoint, as also all officers of forts and garrisons.

The divisions of the militia into brigades, regiments, and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this commonwealth, until the same shall be altered in pursuance of some future law.

XI. No moneys shall be issued out of the treasury of this commonwealth, and disposed of (except such

 CON.: CHAP. II, SEC. I, ART. VII, VIII.

tion, invasion, detriment, or annoyance of this commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, martial law in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise, by all ways and means whatever, all such persons, with their ships, arms, ammunition, and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying of this commonwealth; and the governor shall be intrusted with all these and other powers, incident to the offices of commander in chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land, and not otherwise.

Limitation. **83.** (1780.) The governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water, for the defence of a part of the state to which they cannot otherwise conveniently have access.

Governor and council may pardon offences. **84.** (1780.) The power of pardoning offences, except such as persons may be

sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

XII. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors, adjacent.

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, despatches, and intelligences of a public nature, which shall be directed to them respectively.

CON.: CHAP. II, SEC. I, ART. VIII, IX, X; AM. IV, V.

convicted of before the senate by an impeachment of the house, shall be in the governor, by and with the advice of council; but no charter of pardon, granted by the governor, with advice of the council before conviction, shall avail the person pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

But not before conviction.
109 Mass. 323.

85. (1780.) All judicial officers, the solicitor general, and the coroners, shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

Nominates judicial and other officers.

86. (Am. 4, 1821.) Notaries public shall be appointed by the governor, in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the governor, with the consent of the council, upon the address of both houses of the legislature.

Notaries public.

87. (1780, Am. 5, 1821.) The captains and subalterns of the militia shall be elected by the written votes of the train band and alarm list of their respective companies; and members under, as those above the age of twenty-one years, shall have a right to vote. The field officers of regiments shall be elected by the written votes of the captains and subalterns of their re-

Militia officers, how elected.
Military voters.

XIII. As the public good requires that the governor should not be under the influence of any of the members of the general court by a dependence on them for his support, that he should in all cases act with freedom for the benefit of the public, that he should not have his attention necessarily diverted from that object to his private concerns, and that he should maintain the dignity of the commonwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: and it shall be among the first acts of the general court, after the commencement of this constitution, to establish such salary by law accordingly.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

CHAPTER II.

SECTION II.

Lieutenant-Governor.

ARTICLE I. There shall be annually elected a lieutenant-governor of the commonwealth of Massachusetts,

CON.: CHAP. II, SEC. I, ART. X; AM. IV; CH. II, S. I, AR. X.

How
commissioned. spective regiments: the brigadiers shall be elected in like manner by the field officers of their respective brigades; and those officers, so elected, shall be commissioned by the governor, who shall determine their rankings.

Elections
certified. 88. (1780.) The legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the governor, the officers elected.

Major Generals. 89. (1780.) The major generals shall be appointed by the senate and house of representatives, each having a negative upon the other; and be commissioned by the governor.

Commissary
general. 90. (Am. 4, 1821.) Whenever the exigencies of the commonwealth shall require the appointment of a commissary general, he shall be nominated, appointed and commissioned, in such manner as the legislature may, by law, prescribe.

Removals. 91. (Am. 4, 1821.) All officers commissioned to command in the militia, may be removed from office in such manner as the legislature may, by law, prescribe.

Vacancies,
how filled. 92. (1880.) If the electors of brigadiers, or of lower officers, shall neglect or refuse to make their elections, after being duly notified, according to the laws for the time being, then the governor, with advice of council, shall appoint suitable persons to fill such offices.

whose title shall be — HIS HONOR; and who shall be qualified, in point of [religion,] property, and residence in the commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; [and if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no one person shall have a majority of the votes of the people to be governor.]

II. The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

III. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which by this constitution the governor is vested with, when personally present.

CON.: CHAP. II, S. I, AR. X; S. IV, AR. I; S. I, AR. XI, XII.

93. (1780.) The commanding officers of regiments shall appoint their adjutants and quartermasters; the brigadiers their brigade majors; and the major generals their aids; and the governor shall appoint the adjutant general.

Adjutants,
how appointed.

94. (1780.) Naval officers shall be chosen annually, by joint ballot of the senators and representatives in one room.

Naval officers.

95. (1780.) Except such sums as may be appropriated for the redemption of bills of credit or of treasurer's notes, or for the payment of interest arising thereon, no moneys shall be issued out of the treasury of this commonwealth and disposed of for the necessary defence and support of the commonwealth, and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court, but by warrant under the hand of the governor for the time being, with the advice and consent of the council.

Money drawn
from the
treasury.

13 Allen, 593.

Quarterly
returns.

96. (1780.) All public boards, the commissary general, all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding officers of forts and garrisons within the same, shall, once in every three months, officially and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with

CHAPTER II.

SECTION III.

Council, and the Manner of settling Elections by the Legislature.

ARTICLE I. There shall be a council for advising the governor in the executive part of the government, to consist of [nine] persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, according to the laws of the land.

II. [Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room; and in case there shall not be found upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.]

III. The councillors, in the civil arrangements of the commonwealth, shall have rank next after the lieutenant governor.

CON.: CHAP. II, SEC. I, ART. XII, XIII.

their accoutrements, and of all other public property whatever under their care, respectively; distinguishing the quantity, number, quality, and kind of each, as particularly as they may; together with the condition of such forts and garrisons; and every commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbor or harbors, adjacent.

97. (1780.) And the said boards, and all public officers, shall communicate to the governor, as soon as they can after receiving the same, all letters, dispatches, and intelligences of a public nature, which shall be directed to them respectively.

98. (1780.) As the public good requires that the governor should not be under the undue influence of any of the members of the general court, by a dependence on them for his support, that he should in all cases act with freedom for the benefit of the public, that he should not have his attention necessarily diverted from that object to his private concerns, and that he should maintain the dignity of the commonwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws; and it shall be among the first acts of the general court, after this constitution

Governor
salaried.

IV. [Not more than two councillors shall be chosen out of any one district of this commonwealth.]

V. The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either house of the legislature; and any member of the council may insert his opinion, contrary to the resolution of the majority.

VI. Whenever the office of the governor and lieutenant-governor shall be vacant, by reason of death, absence, or otherwise, then the council, or the major part of them, shall, during such vacancy, have full power and authority to do, and execute, all and every such acts, matters, and things, as the governor or the lieutenant-governor might or could, by virtue of this constitution, do or execute, if they, or either of them, were personally present.

VII. [And whereas the elections appointed to be made, by this constitution, on the last Wednesday in May annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of elections shall be as follows: the vacancies in the senate, if any, shall first be filled up; the governor and lieutenant-governor shall then be elected, provided there should be no choice of them by the people; and afterwards the two houses shall proceed to the election of the council.]

CON.: CH. II, S. I, AR. XIII; CH. VI, AR. II; CH. II, S. II, AR. I, II.

has come into force, to establish such salary by law accordingly.

Supreme judges
salaried.

99. (1780.) Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

Enlarged if
insufficient.

100. (1780.) If it shall be found, that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

Only his
governorship.

101. (1780.) The governor shall hold no office but his governorship and its constitutional positions. He shall have no office, salary nor pension from any other state, nation, government nor power during his term of office.

LIEUTENANT GOVERNOR.

Lieutenant
governor's
title and
qualifications.

102. (1780.) There shall be annually elected a lieutenant governor of the commonwealth of Massachusetts; whose title shall be, His Honor; and who shall be qualified, in point of property, and residence in the commonwealth, in the same manner as the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes of this officer, and the declaration of his election, shall be made as are those for governor.

How chosen.

103. (1780.) In the absence of the governor, the lieutenant governor shall be

CHAPTER II.

SECTION IV.

Secretary, Treasurer, Commissary, etc.

ARTICLE I. [The secretary, treasurer, and receiver-general, and the commissary-general, notaries public, and] naval officers, shall be chosen annually, by joint ballot of the senators and representatives in one room. And, that the citizens of this commonwealth may be assured, from time to time, that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer and receiver-general more than five years successively.

II. The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

CHAPTER III.

JUDICIARY POWER.

ARTICLE I. The tenure, that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting such con-

CON: CH. II, S. II, ART. III; CH. VI, AR. II; CH. II, S. III, AR. I, III.

President of council and a member. president of the council, and shall always be a member of the council, except when the chair of the governor shall be vacant.

Lieut. gov., acting governor. **104.** (1780.) Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant governor, for the time being, shall, during the vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, with which by this constitution the governor is vested, when personally present.

Only his lieut. governorship. (See ¶ 101.) **105.** (1780.) The official restrictions of the lieutenant governor shall be like those of the governor.

COUNCIL: SETTLING ELECTIONS.

Council, eight members. **106.** (1780.) There shall be a council for advising the governor in the executive part of the government, to consist of eight persons besides the lieutenant governor, whom the governor for the time being shall at his discretion have full power and authority from time to time to call together; and the governor, with the said councillors, or five of them at least, shall from time to time hold and keep a council, for the ordering and directing of the affairs of the commonwealth, according to the laws of the land.

Rank. **107.** (1780.) The councillors, in the civil arrangements of the commonwealth,

cerning whom there is different provision made in this constitution ; provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature.

II. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

III. In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates ; and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the commonwealth.

IV. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require ; and the legislature shall, from time to time, hereafter, appoint such times and places ; until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

V. All causes of marriage, divorce, and alimony, and all appeals from the judges of probate, shall be

 CON.: AM. XVI.

shall have rank next after the lieutenant governor.

108. (Am. 16, 1855.) Eight councillors shall be annually chosen by such inhabitants of this commonwealth as are qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor. The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next state census shall have been taken, and at its first session after each decennial state census thereafter, shall divide the commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town, or ward of a city, and each entitled to elect one councillor: but if at any time the constitution shall provide for the division of the commonwealth into forty senatorial districts, then the legislature shall so arrange the councillor districts, that each district shall consist of five contiguous senatorial districts, as they shall be from time to time established by the legislature. No person shall be eligible to the office of councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of

Chosen yearly
by people.

122Mass.595,598.

Districts,
legislature
makes.

Who may be
councillors.

heard and determined by the governor and council, until the legislature shall, by law, make other provision.

CHAPTER IV.

DELEGATES TO CONGRESS.

The delegates of this commonwealth to the congress of the United States, shall, some time in the month of June, annually, be elected by the joint ballot of the senate and house of representatives, assembled together in one room; to serve in congress for one year, to commence on the first Monday in November then next ensuing, They shall have commissions under the hand of the governor, and the great seal of the commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.

CHAPTER V.

THE UNIVERSITY AT CAMBRIDGE AND ENCOURAGEMENT OF LITERATURE, ETC.

SECTION I.

The University.

ARTICLE I. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in

CON.: AM. XXV, XVI.

Day of election. the said elections, shall be the same as are required in the election of governor.

Vacancy in council. **109.** (Am. 25, 1860.) In case of a vacancy in the council, the senate and house of representatives shall, by concurrent vote, choose some eligible person from the people of the district wherefrom such vacancy occurs, to fill that office. If the vacancy shall happen when the legislature is not in session, the governor, with the advice and consent of the council, may fill the vacancy by appointment of some eligible person.

Organization with promptness. **110.** (Am. 16, 1855.) That there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as he can, examine the returned copies of the records for the election of governor, lieutenant governor and councillors; and ten days before the first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the first Wednesday in January, to be by them examined; and if any one of those officers is elected, the choice shall be by them declared and published: if any one is not elected, the legislature shall proceed to fill each vacancy in the manner provided in the constitution for the choice of each officer.

Summonses.

Vacancy of governor, lieutenant governor, councillors.

See ¶ 109.

which university many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences which qualified them for public employments, both in church and state ; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of GOD, the advantage of the Christian religion, and the great benefit of this and the other United States of America,—it is declared, that the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise, and enjoy, all the powers, authorities, rights, liberties, privileges, immunities, and franchises, which they now have, or are entitled to have, hold, use, exercise, and enjoy ; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

II. And whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies, and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college by some other description, under several charters, successively ; it is declared, that all the said gifts, grants, devises, legacies, and conveyances, are hereby forever confirmed unto the president and fellows of Harvard

CON.: CHAP. II, SEC. III, ART. V, VI; AM. VIII, XVII.

111. (1780.) The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for, at any time, by either house of the legislature; and any member of the council may insert his opinion, contrary to the resolution of the majority.

112. (1780.) Whenever the office of the governor and lieutenant governor shall be vacant, by reason of death, absence, or otherwise, then the council, or the major part of it, shall, during that vacancy, have full power and authority to do all such acts and things, as the governor or the lieutenant governor might, by virtue of this constitution, do, if either of them were personally present.

113. (Am. 8, 1821.) A councillor must quit his councillorship if he accept a judgeship in any court but the court of sessions.

SECRETARY AND OTHER OFFICERS.

114. (Am. 17, 1855.) The secretary, treasurer, auditor, and attorney general, shall be chosen annually, on the day in November prescribed for the choice of governor; and each person then chosen, duly qualified in other respects, shall hold his office for the term of one year from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualifications of the

Secretary,
treasurer, audi-
tor, attorney-
general, by the
people.
See ¶ 49.

College, and to their successors in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, deviser or devisors.

III. And whereas, by an act of the general court of the colony of Massachusetts Bay, passed in the year one thousand six hundred and forty-two, the governor and deputy-governor, for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in the said act described, constituted the overseers of Harvard College; and it being necessary, in this new constitution of government to ascertain who shall be deemed successors to the said governor, deputy-governor, and magistrates; it is declared, that the governor, lieutenant-governor, council, and senate of this commonwealth, are, and shall be deemed, their successors, who, with the president of Harvard College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining to the overseers of Harvard College; provided, that nothing herein shall be construed to prevent the legislature of this commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a man-

CON.: AM. XVII.

Vacancy.

Qualify within
ten days, or
office vacant.

voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor, In case of a failure to elect any one of these officers on the day in November prescribed, or in case of the decease, in the mean time, of the person elected, that officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for the office on the day in November prescribed, by joint ballot of the senators and representatives, in one room; and if the office of secretary, or treasurer, or auditor, or attorney general, shall become vacant, during an annual or special session of the general court, that vacancy shall in like manner be filled by choice from the people at large; but if the vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. If any person chosen or appointed to any one of those offices shall neglect, for ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant.

ner as might have been done by the legislature of the late Province of the Massachusetts Bay.

CHAPTER V.

SECTION II.

The Encouragement of Literature, etc.

Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments, among the people.

CON.: CHAP. II, SEC. IV, ART. I, II; CHAP. III, ART. I.

No person shall be eligible to any of those offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment.

Treasurer,
five years.

115. (1780.) That the citizens of this commonwealth may be assured from time to time that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer more than five years successively.

Secretary to
keep records:
attend governor
and council.

116. (1780.) The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

JUDICIARY POWER.

Tenure of all
commissions to
be expressed.

Judicial officers
hold during
good behavior.

May be removed
on address.

117. (1780.) The tenure, that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting those for whom different provision has been made in this constitution; but the governor, with consent of the council, may remove them upon the address of both houses of the legislature.

CHAPTER VI.

OATHS AND SUBSCRIPTIONS ; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES ; PECUNIARY QUALIFICATIONS ; COMMISSIONS ; WRITS ; CONFIRMATION OF LAWS ; HABEAS CORPUS ; THE ENACTING STYLE ; CONTINUANCE OF OFFICERS ; PROVISION FOR A FUTURE REVISAL OF THE CONSTITUTION, ETC.

ARTICLE I. [Any person chosen governor, lieutenant-governor, councillor, senator, or representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz. :

"I, A. B., do declare, that I believe the Christian religion, and have a firm persuasion of its truth ; and that I am seised and possessed, in my own right, of the property required by the constitution, as one qualification for the office or place to which I am elected."

And the governor, lieutenant-governor, and councillors, shall make and subscribe the said declaration, in the presence of the two houses of assembly ; and the senators and representatives, first elected under this constitution, before the president and five of the council of the former constitution ; and forever afterwards before the governor and council for the time being.]

And every person chosen to either of the places or offices aforesaid, as also any person appointed or com-

CON.: CH. III, AR. II, III, IV; CH. VI, AR. II; CH. V, S. I, AR. I.

118. (1780.) Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

Supreme judges
give opinions
when required.

122 Mass. 600.
126 Mass. 557, 561.

119. (1780.) In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well being of the commonwealth.

Justices of the
peace: tenure.

3 Cush. 584.

Provisions for
probate courts.

12 Gray, 147.

120. (1780.) The judges of probate of wills, and for granting letters of administration, shall hold their courts at such places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter appoint such times and places.

121. (1780.) Every judge of the supreme court may be a justice of the peace through the state; but shall otherwise be under official restrictions like the governor's.

Only his judge-
ship.

Par. 101.

HARVARD UNIVERSITY.

Harvard
university.

122. (1780.) Whereas our wise and pious ancestors, so early as the year one

missioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz. :

[“I, A. B., do truly and sincerely acknowledge, profess, testify, and declare, that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign, and independent state; and I do swear, that I will bear true faith and allegiance to the said commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever; and that I do renounce and abjure all allegiance, subjection, and obedience to the king, queen, or government of Great Britain (as the case may be), and every other foreign power whatsoever; and that no foreign prince, person, prelate, state, or potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority, dispensing or other power, in any matter, civil, ecclesiastical, or spiritual, within this commonwealth, except the authority and power which is or may be vested by their constituents in the congress of the United States: and I do further testify and declare, that no man or body of men hath or can have any right to absolve or discharge me from the obligation of this oath, declaration, or affirmation; and that I do make this acknowledgment, profession, declaration, testimony, denial, renunciation, and abjuration, heartily and truly, according to the common

CON. : CHAP. V. SEC. I, ART. I, II.

Rights of
officers.

thousand six hundred and thirty six, laid the foundation of Harvard college, in which university many persons of great eminence have, by the blessing of God, been initiated into those arts and sciences which qualified them for public employments, both in church and state ; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of God, the advantage of the Christian religion, and the great benefit of this, and the other united states of America, it is declared that the president and fellows of Harvard college, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have, or are entitled to have, hold, use, exercise and enjoy ; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard college, and to their successors, and to their officers, and servants, respectively forever.

123. (1780.) As at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies and conveyances, have been heretofore made, either to Harvard college in Cambridge, in New England, or to the president and fellows of Harvard college, or to the said college, by some other de-

meaning and acceptance of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me, GOD.”]

“I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of the commonwealth. So help me, GOD.”

Provided, always, that when any person chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oath[s], he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words, [*“I do swear,” “and abjure,” “oath or,” “and abjuration,”* in the first oath; and in the second oath, the words] *“swear and,”* and [in each of them] the words *“So help me, GOD;”* subjoining instead thereof, *“This I do under the pains and penalties of perjury.”*

And the said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor, and councillors, before the president of the senate, in the presence of the two houses of assembly; and by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being;

 CON.: CHAP. V, SEC. I, ART. II, III.

Property
confirmed.

scription, under several charters successively ; all those gifts, grants, devises, legacies and conveyances, are hereby forever confirmed unto the president and fellows of Harvard college, and to their successors in office, according to the true intent and meaning of the donors, grantors and devisors.

Overseers,
old board.

124. (1780.) By an act of the general court of the colony of Massachusetts Bay, passed in the year one thousand six hundred and forty two, the governor and deputy governor, for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in that act described, constituted the overseers of Harvard college ; and it being necessary, in this new constitution of government to ascertain who shall be deemed successors to the said governor, deputy governor, and magistrates ; it is declared, that the governor, lieutenant governor, council, and senate of this commonwealth, are, and shall be deemed, their successors, who, with the president of Harvard college, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining to the overseers of Harvard college ;

Who shall be
overseers.

See Statutes,
1851, 224.
1852, 27.
1859, 212.
1865, 173.
1880, 65.

and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature.

II. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this commonwealth, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace through the state; nor shall they hold any other place or office, or receive any pension or salary from any other state or government or power whatever.

No person shall be capable of holding or exercising at the same time, within this state, more than one of the following offices, viz. : judge of probate—sheriff—register of probate—or register of deeds; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the state at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person.

No person holding the office of judge of the supreme judicial court—secretary—attorney-general—solicitor-general—treasurer or receiver-general—judge of probate—commissary-general—[president, professor, or instructor of Harvard College]—sheriff—clerk of the house of representatives—register of probate—regis-

CON.: CHAP. V, SEC. I, ART. III; SEC. II.

Legislature
may alter law.

provided, that nothing herein shall be construed to prevent the legislature of this commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the legislature of the late province of the Massachusetts Bay.

LITERATURE, SCIENCE, SCHOOLS.

Duty of civil
officers for all
time.

12 Allen, 500 to
503.
103 Mass. 94, 97.

Code of 1882,
p. 300, sec. 15.

125. (1780.) Wisdom and knowledge, as well as virtue, diffused generally among the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality,

ter of deeds—clerk of the supreme judicial court—clerk of the inferior court of common pleas—or officer of the customs, including in this description naval officers—shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up.

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in council; or any councillor shall accept of either of those offices or places.

And no person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under the government of this commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption in obtaining an election or appointment.

III. In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at six shillings and eight pence per ounce; and it shall be in the power of the legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the commonwealth shall require.

IV. All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the gov-

CON.: AM. XVIII, VI; CHAP. VI, ART. I.

honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments among the people.

School moneys
not for sects.

12 Allen, 500, 508.
103 Mass., 93, 96.

126. (Am. 18, 1855.) All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the state for the support of common schools, shall be applied to and expended in no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own school.

OATHS, INCOMPATIBILITY OF OFFICES, PECUNIARY QUALIFICATIONS, COMMISSIONS, WRITS, CONFIRMATION OF LAWS, HAVE THE BODY, ENACTING STYLE, CONTINUANCE OF OFFICERS, REVISAL OF THE CONSTITUTION.

127. (Am. 6, 1821.) Every person chosen or appointed to any office, civil or military, under the government of this commonwealth, before he shall enter upon the duties of his office, shall take and subscribe the following oath:

Allegiance.

I,, do solemnly swear, that I will bear true faith and allegiance to the

ernor and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto.

V. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court,

VI. All the laws which have heretofore been adopted, used, and approved in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

VII. The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious, and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

VIII. The enacting style, in making and passing all acts, statutes, and laws, shall be—"Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same."

IX. To the end there may be no failure of justice, or danger arise to the commonwealth from a change of

CON.: CHAP. VI, ART. I; AM. VI.

commonwealth of Massachusetts, and will support the constitution thereof. So help me, God.

128. (1780.) Every officer shall also take and subscribe this oath of office :

Oath of office.

I,, do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of the commonwealth. So help me, God.

Friends,
allegiance.

129. (Am. 6, 1821.) Friends, called Quakers, may affirm allegiance in these words : I,, do, under the penalties of perjury, solemnly affirm that I will bear true faith and allegiance to the commonwealth of Massachusetts, and will support the constitution thereof. They may also affirm for office :

Friends, office.

130. (1780.) I,, do, under the penalties of perjury, solemnly affirm that I will faithfully and impartially perform all the duties incumbent on me as, according to the best of my abilities and understanding, agreeably to the regulations of the constitution and the laws of the commonwealth.

Oaths and
affirmations,
taken.

131. (1780.) Those oaths or affirmations shall be taken and subscribed by the governor, lieutenant governor, and councillors, before the president of the senate,

the form of government, all officers, civil and military, holding commissions under the government and people of Massachusetts Bay in New England, and all other officers of the said government and people, at the time this constitution shall take effect, shall have, hold, use, exercise, and enjoy, all the powers and authority to them granted or committed, until other persons shall be appointed in their stead ; and all courts of law shall proceed in the execution of the business of their respective departments ; and all the executive and legislative officers, bodies, and powers shall continue in full force, in the enjoyment and exercise of all their trusts, employments, and authority ; until the general court, and the supreme and executive officers under this constitution, are designated and invested with their respective trusts, powers, and authority.

X. [In order the more effectually to adhere to the principles of the constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary, the general court which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the selectmen of the several towns, and to the assessors of the unin-corporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the constitution, in order to amendments.

CON.: AM. VII; CHAP. VI, ART. II.

in the presence of the two houses of the legislature; and, by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being; and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature.

132. (Am. 7, 1821.) No oath, declaration, nor subscription, excepting the oath of allegiance, and the oath of office, shall be required of the governor, lieutenant governor, councillors, senators, nor representatives, to qualify them to perform the duties of their respective offices.

133. (1780.) The judges of the supreme court may be justices of the peace through the state: the governor, for the time being, shall be the commander in chief of all the state's military and naval forces: otherwise, the governor shall hold no office nor place under the authority of this commonwealth but his governorship, the lieutenant governor none but his constitutional lieutenant governorship, the supreme judges none but their judgeships; nor shall any of those officers hold any place nor office, nor receive any pension nor salary from any other state nor government nor power whatever.

Limit of offices
to governor
and others.
Par. 82.

And if it shall appear, by the returns made, that two-thirds of the qualified voters throughout the state, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the general court shall issue precepts, or direct them to be issued from the secretary's office, to the several towns to elect delegates to meet in convention for the purpose aforesaid.

The said delegates to be chosen in the same manner and proportion as their representatives in the second branch of the legislature are by this constitution to be chosen.]

XI. This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth, in all future editions of the said laws.

ARTICLES OF AMENDMENT.

ARTICLE I. If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have been laid before the governor for his approbation, and thereby prevent his returning it with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

 CON.: AM. VIII; CHAP. VI, ART. II.

134. (Am. 8, 1821; 1780.) A postmaster or a judge of the court of the sessions may, with his office, hold a seat if elected to it, in the council, senate or house of representatives; and a sessions judge may so sit in either house of the United States congress: otherwise, no judge of any court of this state, and no United States officer, while in office, shall be governor, lieutenant governor, nor councillor; nor shall any judge of a state court, nor the secretary, attorney general, solicitor general, treasurer, commissary general, clerk of the house of representatives, clerk of the supreme court, clerk of the court of common pleas, sheriff, register of probate, register of deeds, officer of the customs, nor officer of the navy, nor any United States officer, while in office, have a seat in the senate of this state, nor in its house of representatives; nor again shall any state judge, nor the attorney general, solicitor general, treasurer, nor a county attorney, clerk of any court, sheriff, register of probate, nor register of deeds, continue to hold his office after accepting a membership in the congress of the United States; but whenever any one of those officers accepts an incompatible office, his acceptance shall work his immediate resignation of his former office; and any seat so vacated in the senate or in the house, shall be filled anew.

Incompatibility
of offices.

122 Mass. 445, 600.
123 Mass. 535.

Clerk of senate
not named.

ART. II. The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this commonwealth, and to grant to the inhabitants thereof such powers, privileges, and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings. Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose. And provided, also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court.

ART. III. Every male citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship, who shall have resided within the commonwealth one year, and within the town or district in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, and who shall have paid, by himself, or his parent, master,

CON.: CHAP. VI, ART. II; AM. VIII; CHAP. VI, ART. II, III.

135. (1780.) The same rule shall take place if any judge of the supreme judicial court, or judge of probate, shall accept a seat in council; or any councillor shall accept either of those judgeships.

136. (Am. 8, 1821.) Any judge of the court of common pleas may hold militia offices and be a justice of the peace: otherwise his judgeship shall be the only state office allowed him.

137. (1780.) No person shall be capable at the same time, within this state, of being or of exercising the functions of more than one of the following officers: judge of probate, sheriff, register of probate, register of deeds; nor ever more than any two offices, which are to be held by appointment of the governor, or of the governor and council, or of the senate, or of the house of representatives, or by the election of the people of the state at large, or of the people of any county, except military offices, and a justiceship of the peace.

138. (1780.) No person shall ever be admitted to hold a seat in the legislature, nor any office of trust nor of importance under the government of this commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption in obtaining an election or appointment.

139. (1780.) In all cases, where sums of money are mentioned in this constitution,

Bribery or
corruption
disqualifies.

Value of money
fixed.

or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall be, by law, exempted from taxation, and who shall be, in all other respects, qualified as above mentioned, shall have a right to vote in such election of governor, lieutenant-governor, senators, and representatives; and no other persons shall be entitled to vote in such elections.

ART. IV. Notaries public shall be appointed by the governor in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the governor, with the consent of the council, upon the address of both houses of the legislature.

[In case the office of secretary or treasurer of the commonwealth shall become vacant from any cause, during the recess of the general court, the governor, with the advice and consent of the council, shall nominate and appoint, under such regulations as may be prescribed by law, a competent and suitable person to such vacant office, who shall hold the same until a successor shall be appointed by the general court.]

Whenever the exigencies of the commonwealth shall require the appointment of a commissary-general, he shall be nominated, appointed, and commissioned, in such manner as the legislature may, by law, prescribe.

All officers commissioned to command in the militia may be removed from office in such manner as the legislature may, by law, prescribe.

CON.: CHAP. VI, ART. III, IV, V, VI, VII.

Property qualifications may be increased. the value thereof shall be computed in silver, at six shillings and eight pence a Troy ounce ; and it shall be in the power of the legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the commonwealth shall require.

Commissions signed by governor. **140.** (1780.) All commissions shall be in the name of the commonwealth of Massachusetts, signed by the governor and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto.

Writs. **141.** (1780.) All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the commonwealth of Massachusetts : they shall be under the seal of the court from which they issue : they shall be certified by the first justice of the court to which they shall be returnable, who is not a party ; and be signed by the clerk of that court.

Former laws. **142.** (1780.) All the laws which have heretofore been adopted, used, and approved in the province, colony, or state of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature ; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

143. (1780.) The privilege and benefit

2 Pick. 592.
3 Met. 58.
13 Gray, 74.

1 Mass. 59.
2 Mass. 534.
8 Pick. 309, 316.
16 Pick. 107, 115.
2 Met. 118.

ART. V. In the elections of captains and subalterns of the militia, all the members of their respective companies, as well those under as those above the age of twenty-one years, shall have a right to vote.

ART. VI. Instead of the oath of allegiance prescribed by the constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the government of this commonwealth, before he shall enter on the duties of his office, to wit :—

“I, A. B. do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, God.”

Provided, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word “swear” and inserting, instead thereof, the word “affirm,” and omitting the words “So help me, God,” and subjoining, instead thereof, the words, “This I do under the pains and penalties of perjury.”

ART. VII. No oath, declaration, or subscription, excepting the oath prescribed in the preceding article, and the oath of office, shall be required of the governor, lieutenant-governor, councillors, senators, or representatives, to qualify them to perform the duties of their respective offices.

ART. VIII. No judge of any court of this com-

CON.: CHAP. VI, ART. VII, VIII; AM. IX.

Writ to bring of the writ of habeas corpus, shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious, and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

Enacting style. 144. (1780.) The enacting style, in making and passing all acts, statutes, and laws, shall be, be it enacted by the senate and house of representatives, in general court assembled, and by the authority of the same.

Amendment, method of. 145. (Am. 9, 1821.) If at any time hereafter any specific and particular amendment to the constitution be proposed in the general court, and agreed to by a majority of the senators and two thirds of the members of the house of representatives present and voting thereon, such proposed amendment shall be entered on the journals of the two houses, with the yeas and nays taken thereon, and referred to the general court then next to be chosen, and shall be published; and if, in the general court next chosen, such proposed amendment shall be agreed to by a majority of the senators and two thirds of the members of the house of representatives present and voting thereon, then the general court shall submit that proposed amendment to the people; and if it shall be approved and ratified by a majority of the qualified voters, voting thereon,

monwealth, (except the court of sessions,) and no person holding any office under the authority of the United States, (postmasters excepted,) shall, at the same time, hold the office of governor, lieutenant-governor, or councillor, or have a seat in the senate or house of representatives of this commonwealth; and no judge of any court in this commonwealth, (except the court of sessions,) nor the attorney-general, solicitor-general, county attorney, clerk of any court, sheriff, treasurer, and receiver-general, register of probate, nor register of deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of his said office; and judges of the courts of common pleas shall hold no other office under the government of this commonwealth, the office of justice of the peace and militia offices excepted.

ART. IX. If, at any time hereafter, any specific and particular amendment or amendments to the constitution be proposed in the general court, and agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two houses, with the yeas and nays taken thereon, and referred to the general court then next to be chosen, and shall be published; and if, in the general court next

CON.: AM. IX; CHAP. VI, ART. XI.

at meetings legally warned and held for that purpose, it shall become a part of the constitution of this commonwealth.

146. (1780.) This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth, in all future editions of those laws.

Preserving and
publishing this
constitution.

END OF ADJUSTED CONSTITUTION.

chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, then it shall be the duty of the general court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters, voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the constitution of this commonwealth.

ART. X. The political year shall begin on the first Wednesday of January, instead of the last Wednesday of May; and the general court shall assemble every year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and do all the other acts, which are by the constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the governor. The governor, lieutenant-governor and councillors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

[The meeting for the choice of governor, lieutenant-

governor, senators, and representatives, shall be held on the second Monday of November in every year ; but meetings may be adjourned, if necessary, for the choice of representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of representatives, such meetings shall be held on the fourth Monday of the same month of November.]

All the other provisions of the constitution, respecting the elections and proceedings of the members of the general court, or of any other officers or persons whatever, that have reference to the last Wednesday of May, as the commencement of the political year, shall be so far altered, as to have like reference to the first Wednesday of January.

This article shall go into operation on the first day of October, next following the day when the same shall be duly ratified and adopted as an amendment of the constitution ; and the governor, lieutenant-governor, councillors, senators, representatives, and all other state officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer ; and the first election of the governor, lieutenant-governor, senators, and representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of November follow-

ing the day on which the same shall be in force, and go into operation, pursuant to the foregoing provision.

All the provisions of the existing constitution, inconsistent with the provisions herein contained, are hereby wholly annulled.

ART. XI. Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted :—

“As the public worship of GOD and instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subor-

dination of any one sect or denomination to another shall ever be established by law."

ART. XII. [In order to provide for a representation of the citizens of this commonwealth, founded upon the principles of equality, a census of the ratable polls, in each city, town, and district of the commonwealth, on the first day of May, shall be taken and returned into the secretary's office, in such manner as the legislature shall provide, within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter, in the month of May, in manner aforesaid; and each town or city having three hundred ratable polls at the last preceding decennial census of polls, may elect one representative, and for every four hundred and fifty ratable polls in addition to the first three hundred, one representative more.

Any town having less than three hundred ratable polls shall be represented thus: The whole number of ratable polls, at the last preceding decennial census of polls, shall be multiplied by ten, and the product divided by three hundred; and such town may elect one representative as many years within ten years, as three hundred is contained in the product aforesaid.

Any city or town having ratable polls enough to elect one or more representatives, with any number of polls beyond the necessary number, may be represented, as to that surplus number, by multiplying such surplus number by ten and dividing the product by four

hundred and fifty; and such city or town may elect one additional representative as many years, within the ten years, as four hundred and fifty is contained in the product aforesaid.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns and districts, respectively, called for that purpose, and held previous to the first day of July, in the year in which the decennial census of polls shall be taken, form themselves into a representative district to continue until the next decennial census of polls, for the election of a representative, or representatives; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of ratable polls.

The governor and council shall ascertain and determine, within the months of July and August, in the year of our Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of representatives, which each city, town, and representative district is entitled to elect, and the number of years, within the period of ten years then next ensuing, that each city, town, and representative district may elect an additional representative; and where any town has not a sufficient number of polls to elect a representative each year, then, how many years within the ten years, such town may elect a representative; and the same shall be done once in ten

years, thereafter, by the governor and council, and the number of ratable polls in each decennial census of polls, shall determine the number of representatives, which each city, town and representative district may elect as aforesaid; and when the number of representatives to be elected by each city, town, or representative district is ascertained and determined as aforesaid, the governor shall cause the same to be published forthwith for the information of the people, and that number shall remain fixed and unalterable for the period of ten years.

All the provisions of the existing constitution inconsistent with the provisions herein contained, are hereby wholly annulled.]

ART. XIII. [A census of the inhabitants of each city and town, on the first day of May, shall be taken, and returned into the secretary's office, on or before the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter; which census shall determine the apportionment of senators and representatives for the term of ten years.

The several senatorial districts now existing shall be permanent. The senate shall consist of forty members; and in the year one thousand eight hundred and forty, and every tenth year thereafter, the governor and council shall assign the number of senators to be chosen in each district, according to the number of inhabitants in the same. But, in all cases, at least one senator shall be assigned to each district.

The members of the house of representatives shall be apportioned in the following manner: Every town or city containing twelve hundred inhabitants may elect one representative; and two thousand four hundred inhabitants shall be the mean increasing number, which shall entitle it to an additional representative.

Every town containing less than twelve hundred inhabitants shall be entitled to elect a representative as many times within ten years as the number one hundred and sixty is contained in the number of the inhabitants of said town. Such towns may also elect one representative for the year in which the valuation of estates within the commonwealth shall be settled.

Any two or more of the several towns may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns, respectively, called for that purpose, and held before the first day of August, in the year one thousand eight hundred and forty, and every tenth year thereafter, form themselves into a representative district, to continue for the term of ten years; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of inhabitants.

The number of inhabitants which shall entitle a town to elect one representative, and the mean increasing number which shall entitle a town or city to elect more than one, and also the number by which the population of towns not entitled to a representative every year is to be divided, shall be increased, respec-

tively, by one-tenth of the numbers above mentioned, whenever the population of the commonwealth shall have increased to seven hundred and seventy thousand, and for every additional increase of seventy thousand inhabitants, the same addition of one-tenth shall be made, respectively, to the said numbers above mentioned.

In the year of each decennial census, the governor and council shall, before the first day of September, apportion the number of representatives which each city, town, and representative district is entitled to elect, and ascertain how many years, within ten years, any town may elect a representative, which is not entitled to elect one every year; and the governor shall cause the same to be published forthwith.

Nine councillors shall be annually chosen from among the people at large, on the first Wednesday of January, or as soon thereafter as may be, by the joint ballot of the senators and representatives, assembled in one room, who shall, as soon as may be, in like manner, fill up any vacancies that may happen in the council, by death, resignation, or otherwise. No person shall be elected a councillor, who has not been an inhabitant of this commonwealth for the term of five years immediately preceding his election; and not more than one councillor shall be chosen from any one senatorial district in the commonwealth.]

No possession of a freehold, or of any other estate, shall be required as a qualification for holding a seat

in either branch of the general court, or in the executive council.

ART. XIV. In all elections of civil officers by the people of this commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

ART. XV. The meeting for the choice of governor, lieutenant-governor, senators, and representatives, shall be held on the Tuesday next after the first Monday in November, annually; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November.

ART. XVI. Eight councillors shall be annually chosen by the inhabitants of this commonwealth, qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor. The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next state census shall have been taken, and at its first session after each decennial state census thereafterwards, shall divide the commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor: *provided, however*, that if, at any time, the constitution shall provide for the division of the com-

monwealth into forty senatorial districts, then the legislature shall so arrange the councillor districts, that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of governor. [Whenever there shall be a failure to elect the full number of councillors, the vacancies shall be filled in the same manner as is required for filling vacancies in the senate; and vacancies occasioned by death, removal from the state, or otherwise, shall be filled in like manner, as soon as may be, after such vacancies shall have happened.] And that there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them ex-

amined ; and in case of the election of either of said officers, the choice shall be by them declared and published ; but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

ART. XVII. The secretary, treasurer and receiver-general, auditor, and attorney-general, shall be chosen annually, on the day in November prescribed for the choice of governor ; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of one year from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives, in one room ; and in case the office of secretary, or treasurer and receiver-general, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall

in like manner be filled by choice from the people at large ; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment.

ART. XVIII. All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the state for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended ; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own school.

ART. XIX. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, commissioners of insolvency, and clerks of

the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe.

ART. XX. No person shall have the right to vote, or be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name : *provided, however*, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect.

ART. XXI. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven ; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters ; and in each city, said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of representatives for the periods between the taking of the census.

The house of representatives shall consist of two hundred and forty members, which shall be apportioned by the legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration ; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth ; and it shall be the duty of the secretary of this commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk,—or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law,—shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county

equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law. Not less than one hundred members of the house of representatives shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

ART. XXII. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the

year one thousand eight hundred and fifty-seven ; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: *provided, however*, that no town or ward of a city shall be divided therefor ; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. Each district shall elect one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen ; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the commonwealth. Not less than sixteen senators shall constitute a quorum for doing business ; but a less number may organize temporarily,

adjourn from day to day, and compel the attendance of absent members.

ART. XXIII. [No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and, *provided, further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom.]

ART. XXIV. Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of the senators elected.

ART. XXV. In case of a vacancy in the council, from a failure of election, or other cause, the senate and house of representatives shall, by concurrent vote, choose some eligible person from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the legislature is not in session, the governor, with the advice and consent of the council, may fill the same by appointment of some eligible person.

ART. XXVI. The twenty-third article of the articles of amendment of the constitution of this com-

monwealth, which is as follows, to wit: "No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and *provided, further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom," is hereby wholly annulled.

ART. XXVII. So much of article two of chapter six of the constitution of this commonwealth as relates to persons holding the office of president, professor, or instructor of Harvard College, is hereby annulled.

ART. XXVIII. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of being a pauper; or, if a pauper, because of the non-payment of a poll tax.

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ABBREVIATIONS. **Am.**, **amdt.**, amendment; **ar.**, **art.**, article; **ccl.**, council; **cclr.**, councillor; **ch.**, **chap.**, chapter; **con.**, constitution; **co.**, county; **ct.**, court; **dist.**, district; **gov.**, governor; **govt.**, government; **lgt.**, legislature; **lieut.**, **lt. gov.**, lieutenant governor; **p.**, page; **par.**, paragraph; **rep.**, representative; **s.**, **sec.**, section; **sen.**, senate; **senr.**, senator. Singular and plural shortened alike; others as commonly used. **Code** refers to book of codified public statutes, 1882. **Secretary**, alone, secretary of state or commonwealth. Pages in light figures, paragraphs in heavy.

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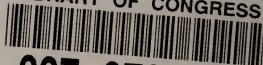
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